

Analects Legal LLC

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December 27, 2023

The Honorable David A. Ruiz
Carl B. Stokes United States Courthouse
801 West Superior Avenue
Courtroom 17B
Cleveland, OH 44113
Ruiz_Chambers@ohnd.uscourts.gov

**Re: *The NOCO Company v. Aukey Technology Co., Ltd., et al.*,
Case No. 1:20-cv-02322 (N.D. Ohio)**

The Hon. David A. Ruiz:

This responds to Plaintiff The NOCO Company’s (“NOCO”) December 11 letter brief as instructed by the Court’s Order dated December 13, 2023. As described below, the alleged discovery disputes presented in NOCO’s letter brief have largely been mooted by intervening events. To the extent disputes remain, they are not yet ripe for resolution because the parties continue to confer and negotiate, including over the deposition dates, the sufficiency of document production, and the proper scope of the Rule 30(b)(6) corporate depositions of each side. Moreover, the imminent, unopposed transition of defense attorneys also counsels tabling any discovery disputes to allow the new lead defense counsel for Defendants¹ to negotiate the outcomes of any disputes and the schedule they will have to litigate within.

- On December 18, 2023, the undersigned informed NOCO that Analects Legal LLC intended to withdraw as counsel for Defendants and sought NOCO’s consent. (Ex. 1 – Email Chain between P. Curtin and K. Stroup, et al., dated 12/18-19/2023 at 3-4.)
- On December 19, 2023, NOCO indicated that it did not oppose the Motion for Leave to Withdraw. (*Id.* at 1-2.)
- On December 19, 2023, the undersigned filed their Unopposed Motion for Leave to Withdraw as Counsel. (Doc. 54.)

¹ The defendants in this action are the Aukey Technology Co., Ltd., Shenzhenshi Jiangyun Shangmaoyouxiangongsi (“HuiMing”), and Wodeshijikeji Shenzhen Youxiangongsi (“WorldUS”).

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- On December 20, 2023, Defendants served on NOCO's counsel individual Notices of Deposition on three NOCO fact witnesses. (*See* Ex. 2 – Email from P. Curtin to K. Stroup, dated 12/20/2023.)
- On December 21, 2023, counsel for the parties met and conferred regarding the upcoming transition of defense counsel, scheduling issues, and the upcoming deadlines. (*See* Ex. 3 – Email from K. Stroup to P. Curtin dated 12/21/2023.)
- Also on December 21, 2023, Defendants served their Objections and Responses to NOCO's Rule 30(b)(6) Notice of Deposition dated November 10, 2023. (*See* Ex. 4 – Email from P. Curtin to K. Stroup dated 12/21/2023.)
- On December 22, 2023, Defendants served their Rule 30(b)(6) Notice of Deposition on The NOCO Company (*See* Ex. 5 – Email from P. Curtin to K. Stroup dated 12/22/2023.)
- Also on December 22, 2023, Defendants filed their Unopposed Motion to Stay Case Deadlines Pending Transition of Defense Counsel. (Doc. 55.)
- Defendants will provide Supplemental Responses to NOCO's First Set of Requests for Admission (through current counsel) and will do so by January 12, 2024.

That being said, Defendants disagree with NOCO's presentation of the facts and characterization of the disputed issues in the December 11 letter brief, which presents a selective and misleading picture of the course and conduct of discovery. Defendants' objections, when posed, have been merited, and Defendants have consistently fulfilled their discovery obligations and provided more discovery, and earlier, than NOCO has provided in return. Moreover, although NOCO requested the most recent discovery extension, its actions effectively ensured the parties would not complete fact discovery by January 3, 2024.

For example, NOCO waited until November 10, 2023, more than five weeks into its requested extension, before serving supplemental initial disclosures, supplemental interrogatory responses, a discovery deficiency letter, and its proposed Rule 30(b)(6) Notices of Deposition on Defendants. (*See* Ex. 6 – Email from K. Stroup to P. Curtin dated 11/10/2023.) When NOCO surprised Defendants with this flurry of activity, just over seven weeks remained for fact discovery, a period encompassing the Thanksgiving, Christmas and New Years Day holidays.

Further, NOCO has complained about the timing of Defendants' document production in its recent filings, but NOCO first produced documents on November 22,

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2023 (the day before Thanksgiving). (See Ex. 7 – Email from K. Stroup to P. Curtin, dated 11/22/2023.) NOCO’s document production arrived more than a year after Defendants’ Requests for Production — propounded on November 6, 2022 (see Ex. 8 – Letter from P. Curtin to J. Pinney, et al., dated 02/10/2023 at 1) — and just six weeks before the fact discovery deadline. Based on Aukey’s initial review, NOCO’s document production seems very limited, and includes no financial documents or information (sales, costs, profits, etc.) relevant to damages. The parties have discussed, but have never finalized the details of, an exchange of relevant summary financial information.

For the reasons described above, and further described in Defendants’ pending unopposed motions (Docs. 54-55), Defendants respectfully urge the Court to table the discovery issues raised in NOCO’s December 11, 2023 discovery letter and, to the extent those issues are not moot, take them up again after Defendants’ new lead defense counsel have appeared and they, along with any other discovery disputes, have crystallized.

Respectfully submitted,

/s/ Peter J Curtin

Peter J. Curtin
Partner, Analects Legal LLC